

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Court's order whether the case is or not approved for reporting

(Chapter VIII, Rule 32(2) (b))

Description of Case

A.O. No. 492 of 2001

(Old No. 1202 of 1990)

Date of Decision :- 04-7-2006

A.F.R. (Approved for Reporting)

Not approved for reporting

Date :- 04-7-2006

Initials of Judge

Note :- Bench Reader will attach this at the top of the first page of judgment when it is put up before the Judge for signature.

**IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL**

A.O. No. 492 of 2001

(Old A.O.No. 1202 of 1990)

Jaikiriti Singh
S/o Sri Puran Singh
R/o Village Dushad Gaon
Tehsil and District – Chamoli ... Appellant

Versus

1. Smt. Mathura Devi
W/o Late Shri Sunder Singh
R/o Village Jilashu,
Tehsil and District – Chamoli ... Plaintiff/respondent
2. Saukin Singh
S/o Shri Sunder Singh
R/o Village Som, Tahsil Pratapnagar
District – Tehri Garhwal
3. Sridhar Prasad Hatawal
S/o Shri Ram Chandra Hatwal
R/o Hat, Tahsil – Chamoli
District – Chamoli
4. The National Insurance Company Gopeshwar
District – Chamoli ... Defendant/respondents

Sri Rajendra Dobhal, learned counsel for the appellant.
Sri Lalit Belwal, learned counsel for the Insurance company.

Hon'ble J.C.S.Rawat, J.

This appeal under Section 173 of the Motor Vehicles Act, 1988 has been preferred against the judgment and award dated 31.07.1990 passed by the Motor Accident Claims Tribunal / District Judge Chamoli in Motor Accident Claim Petition No. 5 of 1988 whereby claim for compensation of Rs. 75,000/- was awarded against the opposite parties. The appellant Jaikiriti Singh was ordered to pay 10,000/- to the claimant-Mathura Devi. The opposite party No. 2-Saukin Singh, 3-Driver- Sridhar Prasad Hatawal and 4-Insurance Company were also

directed to pay Rs. 10,000/- Rs. 5000/- and Rs. 50,000/- respectively to the Mathura Devi-claimant.

Brief facts for the disposal of this appeal are that the claimant-Mathura Devi had filed a claim petition alleging therein that the deceased Sunder Singh was traveling from Karnprayag to Chamoli on 14.02.1988. While he was traveling by the bus No. USY 3268, the said offending bus met an accident in which the husband of the claimant, Sunder Singh succumbed to his injuries. It is further alleged that he was employed in the Government Deptt. at Joshimath and he was getting a salary of Rs. 1000/- per month. The claim petition was filed for seeking the compensation of Rs. 1,50,000/- from the respondents.

The said claim petition was contested by all the respondents and it was contended that the bus No. USY 3268 was coming its wrong side from the opposite direction and it hit the offending vehicle and the offending vehicle became out of control and as such, the accident occurred. There was no fault of the driver of the offending vehicle to cause the accident.

After appraisal of the evidence on record, the Tribunal came to the conclusion that the claimant was entitled to get a sum of Rs. 75,000/- as indicated above from the respondent Nos. 2 to 4 and appellant.

I have heard learned counsel for the parties and perused the record.

After perusal of the evidence on record and hearing the parties, the learned Tribunal held that the injured was traveling in the offending vehicle on 14.02.1988 which was being driven rashly and negligently by its driver with the result, the deceased sustained the injuries. The

Tribunal came to the conclusion that the deceased was employed in the Planning Department, Joshimath and his age was 35 years and he was getting a salary of Rs. 1,000/- p.m. It was further held that the claimant is entitled to get a sum of Rs. 75,000/- in all. It was contended by both the parties that the appeal of Jaikirit Singh who was the owner of the vehicle has already been dismissed by this court in A.O. No. 997 of 2001. This court had repelled the contention of the appellant that the driver of the offending bus was not rash and negligent. It was further held that the accident occurred due to the rash and negligent driving of the driver of the offending vehicle. I have gone through the finding of the learned Tribunal by which the compensation had been awarded. The compensation awarded by the court below is just and proper. This case is squarely covered by the above judgment passed by this court on 13th April, 2006. As such, the appeal is liable to be dismissed.

Accordingly, the appeal is dismissed. The impugned judgment and award dated 31.07.1990 is upheld. No order as to costs.

All applications pending in this case are stand disposed of in terms of the judgment.

(J.C.S. RAWAT, J.)

04th July, 2006
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